

Assembly Bill No. 2399

Passed the Assembly August 26, 2014

Chief Clerk of the Assembly

Passed the Senate August 25, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1798.90.1 of the Civil Code, and to amend Section 7150.90 of the Health and Safety Code, relating to anatomical gifts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2399, John A. Pérez. Organ and tissue donor registry: driver's license information.

The Uniform Anatomical Gift Act authorizes specified state organ procurement organizations to establish a not-for-profit entity designated the California Organ and Tissue Donor Registrar, and requires that entity to establish and maintain the Donate Life California Organ and Tissue Donor Registry. The act requires the registrar to submit an annual written report to the State Public Health Officer and the Legislature with specified information, including the general characteristics of donors as may be determined by information provided on donor registry forms.

Existing law authorizes a business to swipe a driver's license or identification card issued by the Department of Motor Vehicles in any electronic device for prescribed verification and informational purposes. Existing law prohibits a business that swipes a driver's license or identification card in an electronic device from maintaining or using that information for any other purpose. A violation of those provisions is a misdemeanor.

This bill would authorize an organ procurement organization, as defined, to swipe a driver's license or identification card to transmit information to the registry described above for the purpose of allowing an individual to identify himself or herself as a registered organ donor, subject to a specified procedure. The bill would require that information gathered or transmitted pursuant to this authorization comply with the Department of Motor Vehicles Information Security Agreement. The bill would revise the reference to general characteristics of donors, described above, to instead refer to the nonidentifiable information, as specified, of donors and would require the registrar's annual report to include the nonidentifiable information of donors as may be determined by information transmitted to the registry, as specified. By

expanding the types of information that a business may obtain, the unauthorized retention or use of which would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 1798.90.1 of the Civil Code is amended to read:

1798.90.1. (a) (1) A business may swipe a driver's license or identification card issued by the Department of Motor Vehicles in any electronic device for the following purposes:

(A) To verify age or the authenticity of the driver's license or identification card.

(B) To comply with a legal requirement to record, retain, or transmit that information.

(C) To transmit information to a check service company for the purpose of approving negotiable instruments, electronic funds transfers, or similar methods of payments, provided that only the name and identification number from the license or the card may be used or retained by the check service company.

(D) To collect or disclose personal information that is required for reporting, investigating, or preventing fraud, abuse, or material misrepresentation.

(2) (A) An organ procurement organization may swipe a driver's license or identification card issued by the Department of Motor Vehicles in any electronic device to transmit information to the Donate Life California Organ and Tissue Donor Registry established pursuant to Section 7150.90 of the Health and Safety Code for the purposes of allowing an individual to identify himself or herself as a registered organ donor. Information gathered or transmitted pursuant to this paragraph shall comply with the Department of Motor Vehicles Information Security Agreement.

(B) Prior to swiping a driver's license or identification card issued by the Department of Motor Vehicles, an organ procurement

organization shall provide clear and conspicuous notice to the applicant and shall follow the procedure prescribed in this subparagraph:

(i) Once the applicant's information is populated on the electronic form, the applicant shall verify that the information is accurate and shall click "submit" after reading a clear and conspicuous consent message, which shall not be combined with or contained within another message, acknowledging that the applicant's information will be used for the sole purpose of being added to the registry.

(ii) The applicant shall provide his or her signature to complete registration.

(iii) The organization or registry system shall provide a written confirmation to the applicant confirming that he or she is signed up as an organ and tissue donor.

(3) A business or organ procurement organization shall not retain or use any of the information obtained by that electronic means for any purpose other than as provided herein.

(b) As used in this section:

(1) "Business" means a proprietorship, partnership, corporation, or any other form of commercial enterprise.

(2) "Organ procurement organization" means a person designated by the Secretary of the federal Department of Health and Human Services as an organ procurement organization.

(c) A violation of this section constitutes a misdemeanor punishable by imprisonment in a county jail for no more than one year, or by a fine of no more than ten thousand dollars (\$10,000), or by both.

SEC. 2. Section 7150.90 of the Health and Safety Code is amended to read:

7150.90. (a) The California organ procurement organizations designated pursuant to Section 273 and following of Title 42 of the United States Code, are hereby authorized to establish a not-for-profit entity that shall be designated the California Organ and Tissue Donor Registrar, which shall establish and maintain the California Organ and Tissue Donor Registry, to be known as the Donate Life California Organ and Tissue Donor Registry. The registry shall contain information regarding persons who have identified themselves as organ and tissue donors upon their death.

The registrar shall be responsible for developing methods to increase the number of donors who enroll in the registry.

(b) The registrar shall make available to the federally designated organ procurement organizations (OPOs) in California and the state licensed tissue and eye banks information contained in the registry regarding potential donors on a 24-hour-a-day, seven-day-a-week basis. This information shall be used to expedite a match between identified organ and tissue donors and potential recipients.

(c) The registrar may receive voluntary contributions to support the registry and its activities.

(d) The registrar shall submit an annual written report to the State Public Health Officer and the Legislature that includes all of the following:

(1) The number of donors on the registry.

(2) The changes in the number of donors on the registry.

(3) The nonidentifiable information, as specified in subparagraph (C) of paragraph (9) of subdivision (b) of Section 12811 of the Vehicle Code, of donors as may be determined by information provided on the donor registry forms pursuant to Sections 12811 and 13005 of the Vehicle Code.

(4) The nonidentifiable information, as specified in subparagraph (C) of paragraph (9) of subdivision (b) of Section 12811 of the Vehicle Code, of donors as may be determined by information transmitted to the registry pursuant to Section 1798.90.1 of the Civil Code to identify an individual as a registered organ donor.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2014

Governor